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PROVIDENT LIFE AND ACCIDENT
INSURANCE COMPANY and GROUP
LONG TERM DISABILITY PLAN
for HELLER, ERHMAN, WHITE & MCAULIFFE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PATRICIA GALVIN

Plaintiff,

VS.

PROVIDENT LIFE AND ACCIDENT
INSURANCE COMPANY as Administrator
and Fiduciary of the GROUP LONG TERM
DISABILITY PLAN for HELLER, ERHMAN,
WHITE & MCAULIFFE, and the GROUP
LONG TERM DISABILITY PLAN for
HELLER, ERHMAN, WHITE &
MCAULIFFE,

Defendant.

Case No.: C07-05195 JF

**STIPULATION RE ADR COMPLIANCE
DATE; ~~[PROPOSED]~~ ORDER
THEREON**

1 The parties to the above captioned matter, plaintiff Patricia Galvin, through her attorney
2 of record, Scott Kalkin, of Robostoff & Kalkin, and defendants Provident Life & Accident
3 Insurance Company as administrator and fiduciary of Group Long Term Disability Plan for
4 Heller, Erhman, White & McAliffe and the Group Long Term Disability Plan for Heller,
5 Erhman, White & McAliffe, through their attorney of records, Thomas M. Herlihy, of WILSON,
6 ELSER, MOSKOWITZ, EDELMAN & DICKER LLP hereby advise the court of the following
7 developments, propose a stipulation, and respectfully request that the court sign the
8 accompanying order.

9 Plaintiff and defendants have selected Michael Loeb of JAMS to act as mediator in the
10 ADR process. Mr. Loeb has agreed to act as mediator.

11 This is a somewhat unusual ERISA long term disability case which began in early 2003
12 and culminated in a reassessment of plaintiff's claim under the terms of the California Settlement
13 Agreement defendant entered into with the California Department of Insurance. It may present
14 several unique issues relating to the content of the administrative record, the scope of the Court's
15 review of that record, and the standard of review to be applied. The administrative record
16 consists of at least 3000 pages of documents and may be much larger. As such, on April 11,
17 2008, Mr. Kalkin and Mr. Herlihy met with Mr. Loeb in an attempt to define the central issues in
18 this case and determine how to best streamline the mediation process with an eye toward
19 economy, while ensuring an adequate substantive review of the relevant issues.

20 The parties have agreed to brief initially for Mr. Loeb the underlying plan benefits, the
21 initial claim by plaintiff, the initial handling of the claim by defendants, the decision on the
22 claim, the request for appeal, and the handling of the appeal. In addition, the parties will provide
23 Mr. Loeb with a chronology of events subsequent to the appeal, which events may be relevant to
24 a determination of the claim. The schedule entails a submission of the above information to Mr.
25 Loeb on or before May 9, 2008, with a follow-up meeting in person or by telephone among Mr.
26 Loeb, Mr. Kalkin, and Mr. Herlihy before the end of May. The tentative plan is to have
27 mediation during the month of June, 2008.

1 Accordingly, the parties stipulate that the currently scheduled completion date for the
 2 ADR process be continued up through and including June 30, 2008, and that the Case
 3 Management Conference currently scheduled for June 6, 2008, be continued to a time convenient
 4 to the Court and the parties in July 2008.

5 The parties also advise the court that in the Joint Case Management Statement submitted
 6 for the February 1, 2008 case management conference, the parties anticipated a trial date in the
 7 latter part of 2008. The parties believe that such a timetable may need to be revised in the event
 8 that mediation does not conclude all disputes. The parties would like to complete the mediation
 9 process before commencing with discovery so as to save money on attorneys' fees, yet, if the
 10 case does not settle at mediation, additional time will be required to allow for appropriate
 11 discovery to take place. Accordingly, the parties request that the Court allow them sufficient
 12 time to complete post-mediation discovery prior to setting a trial date, or a date for cross-motions
 13 for summary judgment.

14
 15 **IT IS SO STIPULATED.**

16 ROBOOSTOFF & KALKIN

17
 18 Dated: April 22, 2008

By _____/s/_____
 Scott Kalkin
 Attorney for Plaintiff
 PATRICIA GALVIN

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 21
 22 WILSON, ELSER, MOSKOWITZ, EDELMAN &
 23 DICKER LLP

24
 25 Dated: April 22, 2008

By _____/s/_____
 Thomas M. Herlihy
 Attorney for Defendants
 PROVIDENT LIFE AND ACCIDENT INSURANCE COMPANY
 and GROUP LONGER TERM DISABILITY PLAN for HELLER,
 28 ERHMAN, WHITE & MCAULIFFE

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ORDER

GOOD CAUSE APPEARING THEREFOR, the completion date for the ADR process in this action is continued to June 30, 2008. CMC set for 6/6/08 is continued to 7/11/08 at 10:30.

Date: 5/9, 2008


UNITED STATES DISTRICT JUDGE
Jeremy Fogel